

REMARKS

I. SUMMARY OF THE OFFICE ACTION

The office action summary indicates that it is non final, responsive to the preliminary amendment dated 10/30/2007, examines and rejects claims 1-51.

Items 1 and 2 in the office action objects to claims 10, 26, and 35. Items 3-18 reject claims 1-51 under 35 USC 103 as obvious based upon Knegendorf et al, US20030074272 (here after "Knegendorf") and Abreu US20010056359 (here after "Abreu").

II. CLAIM STATUS

Claims 1-51 were presented. Claims 1, 24, 49, and 51 were independent.

This amendment cancels claims 1-2, 4, 6-9, 11, and 25-51 and adds claims 52-58.

Claims 3, 5, 10, 12-24, and 52-58 are pending.

Claims 3 and 55 are the only independent claims.

51 claims were previously present. 23 claims are now present.

4 independent claims were previously present. 2 independent claims are now present.

Accordingly, no additional claims fees are due.

III. RESPONSE TO OBJECTIONS TO CLAIMS 10, 26, AND 35

Claims 10, 26, and 35 have been canceled thereby mooting the objection and requirement relating to them.

IV. RESPONSE TO REJECTIONS OF CLAIMS 1-51 UNDER 35 USC 103 BASED UPON KNEGENDORF ET AL, US20030074272 AND ABREU US20010056359

In response to the rejections based upon Knegendorf and Abreu the applicant amends the claims. As amended, independent claim 3, and new independent claim 54, are non obvious.

Knegendorf is directed to a system and method for distributing hazardous product information. Title. It also discloses providing users with fulfillment information about products for which recall notices have been issued. Abstract. The office action states that Knegendorf teaches an automated online system for matching recall specifications with registered consumers, citing the abstract, and paragraphs 54 and 72. The office action admits that Knegendorf fails to teach using a consumer's actual purchase history as part of the way to match users to new recalls.

Abreu is directed to a system for communicating product recall information. Title. Abreu discloses a central computer using a distributed computer network. Abstract. Abreu indicates

that the central computer initiates electronic or other communications to affected users of, inter alia, recall notifications. Abreu paragraphs 94, 164, and 171 relate to the gathering of product information in association with a customer identifier, at a point of transaction. The office action states that Abreu teaches that users are identified at the POS and product identifiers for each purchase are electronically tracked so that if a recall for that particular product is identified/created, the user can easily be associated with the recall and notified, citing paragraph 171. Abreu paragraph 176 states in part that "If any product identifier is recognized as recalled, then the CCC 80 automatically sends the "Alert" message which may actuate the printing device 39F at the point-of-transaction causing it to print said "Alert" message."

Knegendorf and Abrue fail to disclose or suggest the features defined by amended claim 3, as discussed below.

Claim 3 originally recited "The method of claim 1 wherein the step of determining comprises determining if products previously purchased meet a rebate specification." Regarding claim 3, the applicant's specification explains that:

[0025] The recall specification may also include terms of any refund, rebate, or incentive available from the manufacturer to be offered in association with the recall. An example of a refund is currency value in the amount of manufacturer's suggested retail price, or in the amount of price shown on proof of purchase. Examples of a rebate are (1) a check for a fixed currency amount and (2) a store voucher for a fixed discount amount upon a consumer providing proof of purchase of specified products of the manufacturer issuing the recall. More specifically, the manufacturer could offer a rebate to a consumer who had purchased a product item subject to recall upon the consumer providing to the manufacturer *proof of purchase of another product item for the same product and which is not subject to recall. An example of an incentive is a discount obtained from the retailer upon the price of a subsequent purchase of a specified product item made by the manufacturer at the time of the subsequent purchase.* [Italics added for emphasis.]

Thus, the specification explains that the system and method provide for offering a rebate *proof of purchase of another product item for the same product* as the item of the product being recalled. The specification also explains that the system and method provide for offering an

incentive in association with a recall. The specification also states that:

[0034] In step 320, a consumer *at either a POS terminal or a kiosk in the retail store* is identified by one of the specified CIDs. The CID is entered into the *retail store's computer system*. Either the retail store's computer system or a computer system communication therewith (i.e., either another local computer system or the remote central server computer system 10) determines that the received CID is associated with the recall and transmits instructions to notify the consumer of the recall. While the consumer is interacting with the POS terminal or the kiosk, the POS terminal, the kiosk, or hardware adjacent thereto provides to the consumer notification of the recall. Notification may be in the form of a screen display, audible message, or a printed message. The notification may also include notification of terms of any refund, rebate, or incentive. As part of the consumer's interaction with the kiosk or POS terminal, the consumer may be provided any refund due in accordance with the recall specification.

Thus, the specification associates the receipt of the CID with and the notification of the recall and any associated rebate or incentive, with the *at either a POS terminal or a kiosk in the retail store* and with the *retail store's computer system*. The applicant has amended claim 3 to clearly define the concepts of a rebate on a product item not subject to the recall but for the same product as the recall, and an incentive for some future purchase, both tied to the recall notification. Amended claim 3 recites:

A computer network implemented method for recalling product items for a product subject to a recall, comprising:

determining, in a computer system, a CID associated with a product identification of said product subject to said recall, thereby indicating prior purchase by a person associated with said CID of a first product item of said product; and

thereafter, in response to identifying at a terminal or kiosk of a retail store computer system, said CID, thereby indicating the presence of said person at said terminal or kiosk, providing to said person via said terminal or kiosk a notification of said recall for said product and offering to said person via said terminal or

kiosk at least one of (1) a rebate when there is proof of purchase of a second product item for the same product as said first product item subject to said recall but which said second product item is not subject to said recall and (2) an incentive associated with said recall such that said incentive offers a discount upon the price of a subsequent purchase of a specified product item.

Knegendorf and Abreu do not disclose the concept of associating a rebate for a non recalled item for a different product item for which a recall exists. Knegendorf and Abreu do not disclose the concept of associating an incentive for a future purchase associated with the recall notification. Therefore, they do not suggest the subject matter defined by amended claim 3. Dependent claims 52 and 53 individually claim the rebate and incentive concepts. Independent claim 54 and dependent claims 55 and 56 are product claims that mirror method claims 3, 52, and 53. Dependent claim 54 claim providing said rebate is in response to receipt at said terminal or kiosk from said person of said proof of purchase.

Regarding claim 3, the office action stated that:

6. Regarding claim 3, Knegendorf et al teaches that product recalls typically include replacement for a safer version of the product, or compensation. Both of these are taken to meet the broad "rebate" specification.

The relevant passage in Knegendorf, the only one referring to compensation, is in the background section of Knegendorf, and it states that:

[0004] If a particular kind of product is found to have a common flaw that is hazardous, a manufacturer may issue a product hazard information notice, in which detailed information regarding the flaw is provided and either a method of fixing the flaw is described, or consumers who purchased the product may be directed to exchange it at the place of purchase or return it to the manufacturer. This process is sometimes referred to as a "product recall," because the manufacturer is recalling the product and offers to supply the affected consumers with a safer version of the product or monetary compensation.

Nothing in the office action or the corresponding passage in Knegendorf suggest what

claim 3 now defines, and Abreu also does not disclose those concepts. Therefore, claim 3 is non obvious in view of the applied prior art and should be allowed. Similarly, claim 55 should be allowed. The remaining claims are dependent and should be allowed at least due to their dependency on claim 3 or 55.

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